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2
3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 TYLER HULBERT,

7 Plaintiff,

8 v.

9 MICHAEL J. ASTRUE, Commissioner of
10 Social Security

11 Defendant.

Case No. 3:11-cv-05625-BHS-KLS

ORDER DENYING DEFENDANT'S
MOTION TO REMAND PURSUANT TO
SENTENCE FOUR, 42 U.S.C. 405(G)

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13 This matter comes before the Court on defendant's filing of a motion to remand pursuant
14 to sentence four, 42 U.S.C. § 405(g). See ECF #11. Both parties agree the ALJ in this case erred.
15 Specifically, they agree the ALJ erred by issuing a decision dealing with the merits of plaintiff's
16 supplemental security income ("SSI") claim, without first holding an administrative hearing, and
17 without also dealing with the merits of his disability insurance benefits claim. Defendant argues
18 this case should be remanded for further administrative proceedings, including an administrative
19 hearing, without any ruling by the Court on the ALJ's decision regarding plaintiff's SSI benefits
20 claim. Plaintiff argues that remand should occur only after the Court has dealt with that decision,
21 and in any event that defendant's motion should not be entertained until the administrative record
22 has been filed with the Court.
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24 The Court agrees with plaintiff that without the administrative record, any ruling made in
25 regard to defendant's motion would be premature. That is, the Court cannot rule on defendant's
26 motion without first being able to review the administrative record, including the ALJ's decision.

ORDER - 1

1 Accordingly, defendant's motion to remand (ECF #11) hereby is DENIED. Defendant shall file
2 an answer to plaintiff's complaint, along with a copy of the administrative record as is normally
3 required in Social Security cases.

4 Upon the filing of defendant's answer and the administrative record, the Court shall issue
5 a briefing schedule. The parties may address in their briefing all pertinent issues, including those
6 dealing with the merits of the ALJ's decision. Defendant also may raise the issue of whether this
7 matter should be remanded without first dealing with the merits of that decision in his responsive
8 brief, if he so chooses.
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10 The Clerk is directed to send a copy of this order to counsel for plaintiff and counsel for
11 defendants.

12 DATED this 20th day of December, 2011.
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17 Karen L. Strombom
18 United States Magistrate Judge
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